

REMARKS

At the time of the Decision on Appeal dated July 29, 2008, claims 1-13, 15-29, and 31-39 were pending in this application. Applicant acknowledges, with appreciation, the Examiner's indication in the Fourth Office Action that claims 23 and 24 are directed to patentable subject matter. By this amendment, claim 23 has been placed into independent form. Therefore, claims 23 and 24 are in condition for allowance.

Applicant has cancelled claims 1-13, 15-22, 25-29, and 31-39 remove these claims from further consideration in this application. Applicant is not conceding in this application that those claims are not patentable over the prior art cited by the Examiner, as the present claim amendments and cancellations are only for facilitating expeditious prosecution of the allowable subject matter noted by the Examiner. Applicant respectfully reserves the right to pursue these and other claims in one or more continuations and/or divisional patent applications.

Since claims 1-13, 15-22, 29, and 31-35 have been cancelled, the Examiner's rejections as to these claims are moot.

Applicant has made every effort to present claims which distinguish over the prior art, and it is believed that all claims are in condition for allowance. However, Applicant invites the Examiner to call the undersigned if it is believed that a telephonic interview would expedite the prosecution of the application to an allowance. Accordingly, and in view of the foregoing remarks, Applicant hereby respectfully request reconsideration and prompt allowance of the pending claims.

Although Applicant believes that all claims are in condition for allowance, the Examiner is directed to the following statement found in M.P.E.P. § 706(II):

When an application discloses patentable subject matter and it is apparent from the claims and the applicant's arguments that the claims are intended to be directed to such patentable subject matter, but the claims in their present form cannot be allowed because of defects in form or omission of a limitation, the examiner should not stop with a bare objection or rejection of the claims. The examiner's action should be constructive in nature and when possible should offer a definite suggestion for correction. (emphasis added)

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 09-0461, and please credit any excess fees to such deposit account.

Date: September 29, 2008

Respectfully submitted,

/Scott D. Paul/

Scott D. Paul

Registration No. 42,984

Steven M. Greenberg

Registration No. 44,725

Phone: (561) 922-3845

CUSTOMER NUMBER 46320